

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

FILED
IN CLERK'S OFFICE
2006 JUL 21 P 2:57

**CITY OF CHICOPEE acting through
CHICOPEE PUBLIC SCHOOLS,
Plaintiff**

CIVIL ACTION NO. 04-30087

v.

**DAVID T. As parent and next friend of
KAITLYN T. and MASSACHUSETTS
DEPARTMENT OF EDUCATION
Defendants**

**DEFENDANT'S MOTION TO RE-OPEN THE ABOVE MATTER FOR THE LIMITED
ISSUE OF ENFORCING THE STAY PUT PLACEMENT**

COMES now the defendant, by and through her undersigned counsel, and moves this Court re-open the above matter to issue a Preliminary Injunction ordering the Chicopee Public Schools, pursuant to the stay put rights afforded to her under the Individuals with Disability Act, 20 U.S.C 1415(j) to pay the tuition of Kaitlyn T., from September 2005 to May 24, 2006, and reimburse the parents for all costs associated with transporting the child to and from that placement.

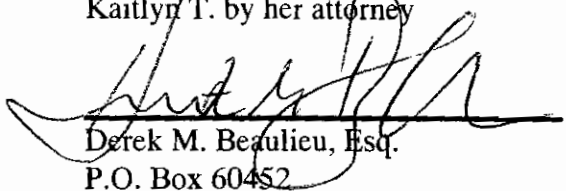
The underlying BSEA action 04-0093, constituted an agreement between the parents and the state as contemplated by 20 U.S.C. 1415(j). According to the statute Kaitlyn's placement at the White Oak School became her "then current placement." The legal action that ensued latter in 2005, where in the School District prevailed before the BSEA, did not alter Kaitlyn's stay put rights because the matter was appealed and litigation was on going until May 24, 2006. Therefore, the BSEA Action 04-0093, which was affirmed on appeal (04-30087) clearly afforded

her the right to remain at the White Oak School as her stay put placement until the matter was resolved or otherwise no longer litigated. The facts and the law in support of this Motion are set forth more fully in the accompanying Memorandum attached to the Parents Motion for Preliminary Injunctive Relief.

WHEREFORE, the Defendants respectfully move this Court to re-open this matter for the limited purpose of issuing an Order for Preliminary Injunction Relief.

Respectfully Submitted
Kaitlyn T. by her attorney

July 21, 2006



Derek M. Beaulieu, Esq.
P.O. Box 60452
Longmeadow MA 01116
BBO# 644185

CERTIFICATE OF SERVICE

I, Derek M. Beaulieu, Attorney for Kaitlyn T. hereby certify that on this day of July, 2006, I delivered by hand a copy of the **DEFENDANT'S MOTION TO RE-OPEN THE ABOVE MATTER FOR THE LIMITED ISSUE OF ENFORCING THE STAY PUT PLACEMENT** to Claire Thompson, Esq., Doherty, Wallace, Pillsbury & Murphy, P.C., One Monarch Place Suite 1900, Springfield, MA 01144-1900

July 21, 2006



Derek M. Beaulieu, Esq.

CERTIFICATION OF COMPLIANCE WITH LOCAL RULE 7.1

Pursuant to Local Rule 7.1 the Attorney for the Parents notified the School District's Attorney by letter on 6-23-06 and by telephone on July 18, 2006 of their desire to discuss the above issues and the possibility of filing a motion for preliminary injunctive relief. As of today the Attorney Thompson has not responded to our efforts to discuss these issues.

July 21, 2006



Derek M. Beaulieu, Esq.